

1 Plaintiffs have proposed several solutions to this dispute: first, the two-word limitation, “by
2 plaintiffs,” as found in Exhibit 1. Second, either a negotiated penalty for the violations during the
3 four-month period, followed by an application to this Court to amend the Complaint to include those
4 violations so that they could be included in the Consent Decree. As Teck Cominco reports, these
5 offers have been rejected. Docket 355 at 3.

6 A third option would be for the Court, in an Order, to rule that the language of paragraph 5
7 as proposed by Teck Cominco would be limited to the parties actually signing and filing the Consent
8 Decree; with that opinion from the Court, plaintiffs would feel comfortable with the Court entering
9 the Consent Decree as proposed by Teck Cominco in Docket 355-2.

10 At this point, the parties have an executed Settlement Agreement covering the actual claims
11 raised in this lawsuit. That Settlement Agreement also covers claims going forward from May 2008
12 through the stipulated penalty provisions. This is what the parties bargained for and agreed to, as
13 set forth in the plain language of the Settlement Agreement.

14 Teck Cominco seeks to enlarge the scope of that Agreement to cover claims not raised in the
15 suit and not covered by the stipulated penalties. It is perplexing to plaintiffs that Teck Cominco is
16 unwilling to effectuate the Settlement Agreement that it bargained so hard for, but instead is now
17 seeking to derail the executed agreement by over-reaching to be insulated from liability for four
18 months of violations in 2007. Plaintiffs believed they had settled the suit in May, but it is now
19 August without resolution. We thus request the Court’s good offices in bringing this matter to
20 resolution.

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22 Respectfully submitted, August 5, 2008.

23 /S/ Luke Cole

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